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Crl.M.P.No.10165 of 2024
in Crl.A.No.913 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.10165 of 2024

in

Crl.A.No.913 of 2024

Vishal

... Petitioner /Accused

Vs.

State: Rep. by
Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.

... Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C. praying to suspend the sentence passed in C.C.No.13 of 2018 order dated 12.10.2022 on the file of Court of Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, pending disposal of the Criminal Appeal.

For Petitioner : Mr.T.S.Sasi Kumar

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in C.C.No.13 of 2018 by judgment dated 12.10.2022 on the file of I Additional Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. It is the case of the prosecution that on 11.08.2017 at about 21.50 hours at the Chennai Central Railway Station, the petitioner was intercepted and found in illegal possession of 3.100 kgs. of Cocaine while he was boarding the first class A/C coach of Tamil Nadu Express to New Delhi and thereby committed the offence under Sections 8(c) r/w 21(c), 28 and 29 of the NDPS Act, 1985.

3. The petitioner/accused in Calendar Case No.13 of 2018 was convicted by the Trial Court by judgment dated 12.10.2022 for the offences under Sections 8(c) r/w 21(c) and 28 of the NDPS Act and sentenced to undergo 12 years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in



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default, to undergo 6 months rigorous imprisonment for the offence under Section 8(c) r/w 21(c) of the NDPS Act and for the offence under Section 8(c) r/w 28 of the NDPS Act, sentenced to undergo 12 years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo six months rigorous imprisonment. Aggrieved by the same, he filed Crl.A.No.913 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The learned counsel for the petitioner would submit that he has raised several substantial grounds, which requires consideration in the appeal and that out of the period of sentence, he has served 7 years and 4 months and since the appeal is not likely to be taken up in near future, the sentence of imprisonment may be suspended.

5.Learned Special Public Prosecutor per contra submitted that the petitioner is involved in a serious offence and period of incarceration alone will not be a ground to suspend the sentence; that the judgment of the trial Court is in accordance with law and that the petitioner otherwise has not made out any ground for suspension of sentence. In support of his contention, he has



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also relied upon the judgment of the Hon'ble Supreme Court, wherein it is held that where a sentence of imprisonment is life, the mere factum of sufferance of incarceration is not a ground for suspending the sentence.

6. Heard the learned counsel for the petitioner as well as the learned Special Public Prosecutor appearing for the respondent and perused the counter filed by the respondent.

7. Though the learned counsel for petitioner has raised substantial grounds, which requires consideration, this Court is not inclined to consider this petition on merits. However, considering the fact that the petitioner is in custody for 7 years and 4 months, which is more than half of the sentence imposed by the trial Court and that the appeal is not likely to be taken up in the near future, this court is inclined to grant the relief of suspension of sentence to the petitioner on payment of fine amount.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal appeal and the petitioner is ordered to be released on bail on



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the following conditions:

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- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned I Additional Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai;
- (ii) The petitioner shall pay the fine imposed by the trial Court;
- (iii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iv) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

16.12.2024

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Issue order copy by 19.12.2024
Upload the order copy forthwith.



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SUNDER MOHAN, J.

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To

- 1.The I Additional Special Judge,
I Additional Special Court for Exclusive Trial of Cases under NDPS Act,
Chennai.
- 2.The Superintendent,
Central Prison-I,
Puzhal, Chennai.
- 3.The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

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